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| EXAMINER |
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VINCENT, DAVID ROBERT

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3628

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/420,033
Filing Date: October 18, 1999
Appellant(s): SUTTON ET AL.

Timothy D. MacIntyre
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/18/02
appealing from the Office action mailed 3/12/02.

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(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief. The real party in interest is David B. Sutton and Douglas E. Blasiman, the inventors.

(2) Related Appeals and Interferences

The brief contains a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal. There are no related appeals nor interferences pending.

(3) Status of the Claims

The statement of the status of claims contained in the brief is correct. There are 11 pending claims, with claims 1-6 being method claims and claims 7-11 being apparatus/system claims. All 11 claims stand rejected under 35 USC § 103 as being unpatentable over Woolston (US 6,202,051) in view of Walker (US 6,240,396).

(4) Status of all Amendments Filed Subsequent to Final Rejection

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. There were no amendments filed after the final rejection of 3/12/02.

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(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-11 stand and fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See CAR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

| | | |
|-----------|---------------|--------|
| 6,202,051 | Woolston | 3-2001 |
| 6,240,396 | Walker et al. | 5-2001 |

(10) New Prior Art

No new prior art has been applied in this examiner's answer.

(11) Grounds of Rejection

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woolston (US 6,202,051 of record) in view of Walker (US 6,240,396 of record).

As shown in Figs. 13, especially Figs. 7 and 12-13, Woolston discloses A method for transacting a purchase between a buyer and a seller using a computer-implemented purchasing system (e.g., col. 7, line 60-col. 8, line 9; or Sale, col. 4, line 65-col. 5, line 23), the purchasing system having at least two computing devices interconnected by a network (e.g., Figs. 1-2), comprising the steps of:

offering an item for sale through the use of a purchase transaction manager, said purchase transaction manager residing (e.g., consignment nodes, col. 7, lines 8-23; or master nodes, col. 6, line 59-col. 7, line 5) on a first computing device interconnected to the network (posting terminal, 700 or maker computer, 800);

providing credit card account information from the seller of said item to said purchase transaction manager (e.g., col. 18, lines 47-57; col. 12, lines 30-57);

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receiving at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit card account information for the potential buyer (see e.g., Auction, cols. 5-7; col. 5, lines 20-23);

determining a winning bid on said item by said purchase transaction manager, thereby identifying a buyer for said item (high bidders, see e.g., Auction, cols. 5-7;); and

transacting a purchase between the buyer and the seller using the credit account information from the buyer and the seller, including the step of crediting the credit card account of the seller (electronic funds transfer techniques may be used for clearing account balances for posting terminal users; col. 19, lines 29-31; and that the clear charge, crediting the seller's account, can be performed by using an external credit card clearing network, a credit account, or through one of the many proposed electronic fund transfer schemes such as debit cards, e.g., col. 12, lines 30-52, especially lines 43-52).

Woolston discloses all of the above (see at least cols 1-26, but in particular cols. 1-4; col. 5, lines 4-23; col. 12, lines 30-67; col. 13, line 1; col. 20, lines 25-67; and cols. 21-26, and in particular col. 21, lines 1-22; col. 22, lines 39-40; and all of col. 23) with the single exception of being explicit that the seller's credit from the transaction goes into his credit card, as specified in claims 1 and 7.

However Walker teaches (see at least cols 1-20, but in particular col. 14, lines 42-45) explicitly the crediting of the seller's credit card account for the net proceeds of the transaction, which was paid for by a debit of a buyer's credit card, as specified in claims 1 and 7.

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In view of the disclosure of Woolston (especially col. 12, lines 30-52), it would have been obvious to one skilled in the art at the time of the invention to integrate the teachings of Walker (e.g., col. 14, lines 42-56) by crediting credit cards (Walker) as opposed to just debit cards (Woolston) because when the two teachings are combined they provide a comprehensive ability to facilitate e-commerce on the internet by providing a seamless and explicit flow of transaction originated funds from one credit card account to another, from buyer to seller, which would save both time and money over other more cumbersome processes.

As to **Claim 2** Woolston disclose "The method of Claim 1 further comprises the step of providing transactional information (e.g., col. 15, line 53-col. 16, line 65 or Fig. 13) for the item by the seller to said purchase transaction manager, where the transactional information includes a description of the item and a minimum bid amount for the item." (see response to claim 1, or cols. 15-16).

As to **Claim 3** "The method of Claim 1 wherein the credit account information is further defined as a credit card number and an expiration date." (see response to claim 1; or e.g., col. 5, lines 10-13).

As to **Claim 4** "The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

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communicating credit account information for the buyer and the seller to a credit card clearinghouse (e.g., col. 5, lines 20-23 or col. 12, lines 43-53); debiting the buyer's credit account an amount which is not less than the amount of the winning bid; crediting said amount to the seller's credit account; and notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller." (see response to claim 1 or e.g., col. 5, lines 10-23 or col. 12, lines 30-53; Fig. 7).

As to **Claim 5** "The method of Claim 1 further comprising the step of shipping the item by the seller to the buyer after the step of transacting the purchase between the buyer and the seller." (see response to claim 1 or col. 5, lines 23-30; lines 41-50; col. 12, lines 65-col. 13, line 1).

As to **Claim 6** "The method of Claim 1 wherein the step of transacting a purchase further comprises the steps of:

providing purchase transactional information to a purchase intermediary, the purchase transactional information includes credit card information for the buyer and the seller;

communicating credit account information for the buyer and the seller to a credit card clearinghouse;

debiting the buyer's credit account an amount which is not less than the amount of the winning bid; crediting said amount to the seller's credit account; and notifying at least one of the buyer and the seller of the transacted purchase between the buyer and the seller." (see response to claim 1 or e.g., col. 5, lines 20-50; col. 12, lines 52-col. 13, line 1).

As to **Claim 7** "A computer-implemented purchasing system for transacting a purchase between a buyer and a seller, the

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purchasing system having at least two computing devices interconnected by a network, comprising:

a sellers application receptive of transactional information and residing on a first computing device, where the transactional information includes credit account information for the seller;

a purchase transaction manager operative to offer said item for sale in response to receiving the transactional information from said sellers application, said purchase transaction manager residing on a second computing device and being interconnected to said sellers application by the network;

said purchase transaction manager receptive of at least one acceptable bid on said item from a potential buyer, where each acceptable bid includes credit account information for the potential buyer, and operative to determine a winning bid on said item, thereby identifying a buyer for said item; and said purchase transaction manager being further operative to transact a purchase between the buyer and the seller using the credit account information from the buyer and the seller, including crediting the credit card account of the seller." (see response to claim 1).

As to **Claim 8** "The purchasing system of Claim 7 further comprising a buyers application receptive of bid information, where the buyers application resides on a third computing device and is interconnected to said purchase transaction manager by the network." (see response to claim 1 or e.g., consignment nodes, col. 7, lines 8-23; or master nodes, col. 6, line 59-col. 7, line 5; posting terminal, 700 or maker computer, 800);

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As to **Claim 9** "The purchasing system of Claim 7 wherein said transactional information from the seller further includes a description of the item and a minimum bid amount for the item." (see response to claims 1 or 2).

As to **Claim 10** "The purchasing system of Claim 7 wherein said credit account information is further defined as a credit card number and an expiration date." (see response to claims 1 or 3).

As to **Claim 11** "The purchasing system of Claim 7 further comprising a credit card clearinghouse receptive of credit card information from said purchase transaction manager, the credit card clearinghouse operative to debit the buyer's credit account an amount which is not less than the amount of the winning bid and to credit said amount to the seller's credit account." (see response to claims 1 or 4).

(13) Response to Arguments

Appellant's arguments filed 9/18/02 have been fully considered but they are not persuasive.

In re pg. 5, lines 3-4, appellant argues that Woolston only describes debiting a credit card account of the buyer.

In response, the examiner strongly disagrees with this characterization of Woolston because Woolston discloses it is understood that **electronic funds transfer techniques may be used for clearing account balances** for posting terminal users ('051: col. 19, lines 29-31), and that the clear charge (crediting the seller's account) can be performed by using an external credit card clearing network, a credit account, or through one of the

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many proposed electronic fund transfer schemes such as debit cards ('051: col. 12, lines 30-52, especially lines 43-52).

In re pg. 5, lines 5-6, the Appellant argues Woolston does not teach transacting a purchase that includes the step of crediting the credit card account of the seller.

In response, although Woolston fails to particularly call for crediting the credit card account of the seller, Woolston does disclose electronic funds transfer techniques may be used for clearing account balances for crediting the seller's account (posting terminal users, or consignment node users which are sellers or good's owner, see col. 5, lines 62-67; posting terminal users by using electronic funds transfer techniques, col. 19, lines 29-31), and that the clear charge (crediting the seller's account) can be performed by using an external credit card clearing network, a credit account, or **through one of the many proposed electronic fund transfer schemes such as debit cards** ('051: col. 12, lines 30-52, especially lines 43-52). Furthermore, applicant cannot show non-obvious by attacking the references individually where as here the rejections are based on a combination of references see In re Keller USPQ 871 (CCPA 1981).

In re pg. 5, the Appellant argues the step of crediting the credit card account of a seller is not an obvious extension of Woolston.

In response, the examiner disagrees because Woolston discloses:

1. using electronic funds transfer techniques (col. 19, lines 29-31),

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2. crediting a seller's store account (consignment node's account, col. 5, lines 21-23),

3. crediting a seller's account using an external credit card clearing network, a credit account (col. 12, lines 48-50),

4. crediting a seller's account using one of the many proposed electronic fund transfer schemes (col. 12, lines 30-52), and

5. crediting a seller's debit card account (col. 12, lines 30-52, especially lines 50-52).

Therefore, the examiner maintains that crediting the credit card account of a seller is an obvious extension of Woolston especially when one of ordinary skill would recognize that a debit card account can actually be a credit card account. Meaning, it is well known that cards such as Visa check cards can be used as credit cards even when the money is going into and out of a checking account that may or may not have overdraft protection. However, since Woolston failed to provide details of the types of debit cards that can be used, Walker was used as a teaching reference for crediting a credit card account.

In re pg. 5, lines 12-13, the Appellant argues any reference to known credit clearing techniques would not suggest the step of crediting the seller's credit card account.

In response, although the examiner disagrees because e.g., debit cards such as Visa check cards with overdraft protection can be used as credit cards even when the money is going into and out of a checking account and/or a line of credit, the examiner also fails to see the relevance of the statement. Meaning, the argument steams from the Appellant arguing that the present invention claims "without the customary corresponding

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debit being present on the seller's credit card account". There is no mention of these limitations in the claims and the specification is not the measure of the invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art; see In re Sprock, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

In re pg. 6, line 4, the Appellant argues that Walker teaches crediting the seller's credit card account.

In response, the examiner agrees.

In re pg. 6, last two lines, the Appellant argues neither Woolston on Walker teach crediting the credit card account of the seller.

In response, the examiner disagrees. Walker (US 6,240,396) clearly teaches crediting the credit card account of the seller (see e.g., col. 14, lines 41-56).

In re pg. 6, lines 6-8, the Appellant argues, Walker does not teach or suggest the step of crediting the seller's credit card account "without a corresponding debit".

In response, there is no mention of these limitations in the claims and the specification is not the measure of the invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art; see In re Sprock, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

Furthermore, it should be noted that the Appellant states (at pg. 6, line 4) that Walker teaches crediting the seller's credit card account and then states neither Woolston on Walker teach crediting the credit card account of the seller (see

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brief: pg. 6, last two lines). These two statements appear to contradict each other.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

**DAVID VINCENT
PRIMARY EXAMINER**

David R. Vincent

David Vincent 9/13/05

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